

**AGENDA FOR THE  
PENSION REFORM COMMITTEE  
MEETING OF  
Tuesday, January 13, 2004  
4:00 PM – 6:00 PM Meeting**

**401 B Street  
Conference Room, 4<sup>th</sup> Floor**

---

**MINUTES**

---

**THE REGULAR MEETINGS OF THE PENSION REFORM COMMITTEE ARE  
SCHEDULED FOR EVERY TUESDAY AT 4:00 PM AT 401 B STREET, 4<sup>TH</sup> FLOOR**

**Item 1:        Call to Order**

The meeting was called to order at 4:10 PM.

**Item 2:        Roll Call**

<u>Members Present</u>	<u>Members Absent</u>	<u>Staff Present</u>
April Boling	Tim Considine	Patricia Frazier
Steve Austin		Chris Morris
Robert Butterfield		Larry Grissom, SDCERS Staff
Judie Italiano		Paul Barnett, SDCERS Staff
William Sheffler		Mary Braunwarth
Richard Vortmann		Pam Holmberg
Kathleen Walsh-Rotto		
Stanley Elmore		

**Item 3:        Approval of Minutes**

There was a motion for approval of the minutes for the January 6, 2004 Pension Reform Committee (Committee) meeting from Judie Italiano. The motion was seconded by Stan Elmore and passed unanimously.

**Item 4:        Compensation Comparisons**

Chris Morris, the City Attorney advisor to the Committee, clarified that this presentation was rescheduled from an earlier date because of concerns with current litigation against the City. The Committee was asked to please keep the subject of their questions to information in today's presentation.

Cathy Lexin, the City's Human Resources Manager, provided a presentation comparing public sector compensation. Her data compared the salary and compensation of the safety classifications with that of the County, the cities within the County, and the ten largest cities in California. Please see the attached presentation. She verified that the County of San Diego no longer collects

private sector data. She also indicated that she did not have any comparisons with the private sector. The Committee asked for additional information on the normal cost of compensation plans at comparable agencies. Mr. Grissom agreed to provide the Committee with the two most recent actuarial valuation reports from the ten largest cities in California and San Diego County.

**Item 5: Response to Previously Addressed Agenda Items.**

The Committee reviewed the draft matrix showing the Committee's requests for information. It was suggested that the items be numbered and the matrix be reviewed each meeting to get an update on undelivered items. It was also suggested that a master file of the delivered information be kept. Two previously cancelled presentations, vested interest and the meet and confer process, were added to the list for future consideration.

Mr. Grissom reported his findings to Mr. Butterfield's request for information about a program at the City of San Francisco where employees had exchanged additional holidays for an annual contribution to the pension fund. Mr. Grissom clarified that approximately 50% of the County employees had agreed, through collective bargaining, to accept no raise for 2003/4 in exchange for four or five new floating holidays and to return to 414 (h) 2 treated employee contributions. The other 50% of employees received no pay raise and are paying 7.5% employee contributions, but have no additional time off. Prior to this agreement the County had paid all or most of the employee's contributions. The combined effect reduced employer costs by \$90 million. Mr. Butterfield had further questions on the program. Mr. Grissom will provide him with a contact in San Francisco. Mr. Butterfield will report his conclusions back to the Committee.

Mr. Austin asked for an update on the Committee's request to the Retirement Board for changes to the scope of their audits that could assist the Committee's investigation. Ms. Boling reported that she asked the Audit Committee of the Retirement Board at the December 18 meeting to certify, within four to six weeks, the CERS actuary, Rick Roeder, and the CERS investment advisor, Callan Associates. The certifications should be completed by February 15. Once the certification is complete the Committee can confidently use their past findings or contract with them for further studies. Ms. Boling reiterated that it was the Committee's intent not to expand the scope of the CERS audits, but use the services of Mr. Roeder, once certified, to perform studies related to the CERS system. It was more cost effective to get these services from Mr. Roeder than Mercer. Mr. Austin agreed to review the work plan and develop the scope of these future studies.

**Item 6: Discussion of Upcoming Presentations Related to the Retirement System Overview and Meeting Schedule**

Ms. Boling said that at the last meeting Mr. Butterfield brought up the notion that select members from the public be invited to address the Committee. Mr. Butterfield was asked to draft a list of potential speakers and what information they could provide to the Committee. Mr. Butterfield discussed his list, which included Retirement Board member Diane Shipione, Firefighter Union president Ron Saathoff, Mr. LaVelle, reporter from the Union Tribune, Judie Italiano, from the perspective of the MEA Union, April Boling, from the perspective of the San Diego Taxpayers Association, a representative from the Port District, Councilmembers Donna Frye and Brian Maienschein, and the Mayor. Ms. Boling expressed concerns that the Committee was formed to investigate facts, not opinions, and she wasn't sure what new information these speakers could bring to the Committee. Mr. Austin suggested that the Committee invite selected individuals to

submit in writing a factual presentation of information that would be helpful to the Committee that has not been previously presented. The Committee agreed to send out letters to the individuals on Mr. Butterfield's list. The Committee can then review their submissions and decide if they would like clarification. Mr. Morris reminded the Committee that Councilmembers and the Mayor may not be able to speak freely on this subject because of the pending litigation.

Ms. Italiano suggested the labor unions be given time to present to the Committee on the meet and confer process and their perspective of the retirement system. This would be a way for the Committee to hear about the meet and confer process without the restrictions currently imposed on public officials by pending litigation. Ms. Italiano, who is president of MEA, will work with Firefighters Local 145, Police Officer's Association, and Local 127 AFL-CIO to coordinate the presentation.

Ms. Boling asked that the Committee be given a presentation on the amortization schedule. The City is currently in the twelfth year of a thirty year schedule. She would like clarification on how new benefits are amortized into the schedule. Mr. Sheffler and Mr. Vortmann agreed to develop a list of questions from the Committee related to the financial impact of Manager's Proposal II and the term of pension obligation bonds on the System and return with them next meeting.

#### **Item 7: Work Plan for the Pension Reform Committee**

Mr. Austin said he would like to have a meeting to review the work plan, what progress has been made on it, and what is still needed. Ms. Boling agreed this was a good idea and suggested they further clarify their upcoming schedule of presentations and review the work plan at a meeting where no presentations are scheduled.

Mr. Vortmann suggested a discussion on the composition and functions of the Retirement Board. He would like to see a comparison to other Retirement Boards. Mr. Grissom will gather this information.

Ms. Italiano asked if health care was still on the Committee's agenda. Ms. Boling indicated it was still within the Committee's scope of work.

Ms. Boling said that the Committee can begin work now on the scope of additional studies needed from Mr. Roeder. Mr. Austin agreed to bring an outline to the next meeting.

#### **Item 8: Comments by Committee Chairperson**

Ms. Boling reported she planned to meet with the Mayor in the next few weeks to request money for studies to be commissioned by the Committee. Ms. Boling plans to ask for \$100,000. She estimates that \$40,000 to \$50,000 will be used to commission Rick Roeder, if he is certified and available, to answer questions in the work plan. The balance of the funds could be used for a comparison study of City employee's compensation versus that of the private sector, and any unused funds can be returned to the City.

#### **Item 9: Comments by Committee Members**

There were no comments.

## **Item 10: Non-Agenda Public Comment**

David Wood said he submitted a letter to the Committee after the last meeting. He was interested in the Committee's discussion about earnings on the system without the smoothing technique. He is concerned because of talk that the system's problems are all a function of the downturn in the market, not under funding. Over the last 10 years the system has earned 9.11%, well over the assumed rate of 8%. If this is true, why is the system under funded by \$1.15 billion dollars? He believes it is the task of the Pension Reform Committee to explain in a clear and factual manner why it is under funded when we've been earning over the assumed rate.

Virginia Silverman said she would be providing the Committee with some articles on pension plans and State law she has collected from the Union Tribune, Sacramento Bee, and Los Angeles Times that she believes will be instructive and interesting to the Committee. She also addressed the increased costs to the system and commented that the City should not grant benefits it can't afford because it hurts this system. She noted that no retired City employees were included in the list to be asked to address the Committee. She thinks it would be instructive for the Committee to hear from some of the retirees that have been affected.

Jim Gleason said he had a few recommendations for the Committee. He feels they need to rescind the City Council action of November, 2002 implementing City Manager's Proposal II. This action has contributed greatly to the System's \$1.15 billion deficit and the benefits are unaffordable. He said the contract provides the ability to rescind the Proposal with no liability. He also recommended that the Committee investigate the interest rate assumed by CERS. The system has reported earnings of 7.95% over the last five years but credited 8% to the employer and employee contributions and to the DROP account. The assumed interest rate is hurting retirees by taking away money from the surplus earnings that pay contingent benefits. He feels perhaps this situation reflects the interest of the majority members of the Retirement Board, who will benefit from this in the future, rather than for current retirees.

Michael Conger thanked the Committee for their hard work and volunteer service. He directed the Committee to the winter 2003 Free Spirit newsletter distributed by SDCERS which reports that the System's rate of return over the last ten years was 9.11%, well over the assumed rate of 8%. He feels that under funding is the primary problem with the System and noted that members of the Committee have publicly raised this same concern. He said the Committee needs to help the City break the addition cycle.

Joe Flynn had some suggestions for the Committee. He believes the Committee should move the public testimony to the beginning of the agenda. This would allow more speakers to have access to the Committee. He encouraged the use of all equipment available to the City to make it easier for all attendees to hear the speakers. He also feels they need to hear from the City retirees to put a face on the numbers.

## **Item 11: Adjournment**

The meeting was adjourned at 6:00 PM.

**The next meeting will be on Tuesday, January 20 at 4:00 PM at the same location.**

## Pension Reform Committee

### Actuarial Task Considerations

#### Potential Solution Variables

#### Actuarial Tasks Defined

##### 1. Plan Amendments

- Proposed Positive Amendments
- Proposed Negative Amendments
- Other

##### 2. Plan Design Changes

- Introduce Defined Contribution Elements for certain plan features
- Effect of changes in “Drop” and “purchased service credits”

##### 3. Actuarial Assumptions

- Proposed effect of change in Plan Asset Earnings to :
  - 7-1/2%
  - 7%
  - 6-1/2%

##### 4. Plan Obligation Bonds

- Estimate percentage of underfunding that is a Candidate for P.O.B.’s
- Effect of changes in underfunding based on changes in
  - Interest Rates
  - Amortization Periods
  - Other

##### 5. Amortization Period for Underfunding

- Restart the clock
- Other periods

## Pension Reform Committee

### Actuarial Task Considerations

#### Potential Solution Variables

#### Actuarial Tasks Defined

##### 6. Evaluation of Certain Actuarial Assumptions

- Interest rate sensitivity/normal cost
- Demographic actuarial sensitivity
- Changes in base compensation growth
- Other assumptions

##### 7. Effect of Plan Administration Cost Containment

##### 8. Effect of Use of 5-year moving average for Plan Asset Valuation

#### Historical Weighted

- 1 year only (2003)
- last 2 years only
- last 3 years only

#### Projected Weighted

- 1 year (2003)
- 2 year (2002/2003)
- 3 year (2001/2002/2003)

##### 9. Model Effect of Full Funding

- Current year/2004
- Other

##### 10. Model Suggested City Pension Payments to CERS for:

2004  
2005 (projected)  
2006 (projected)

## SUPERVISORY UNIT

Airport Manager  
 Aquatics Technician Supervisor  
 Area Manager I  
 Area Manager II  
 Area Refuse Collection Supervisor  
 Asbestos Program Manager  
 Assistant Customer Services Supervisor  
 Assistant Facility Manager  
 Associate Chemist  
 Biologist III  
 Building Maintenance Supervisor  
 Building Services Supervisor  
 Building Supervisor  
 Carpenter Supervisor  
 Cemetery Manager  
 Code Compliance Supervisor  
 Collections Investigator III  
 Communications Technician Supervisor  
 Community Development Specialist III  
 Customer Services Supervisor  
 Data Entry Supervisor  
 Deputy City Clerk II  
 Disposal Site Supervisor  
 District Manager  
 District Refuse Collection Supervisor  
 Electrician Supervisor  
 Electronics Technician Supervisor  
 Equipment Repair Supervisor  
 Equipment Service Supervisor  
 Equipment Trainer  
 Fire Dispatch Supervisor  
 Fleet Maintenance Supervisor  
 General Utility Supervisor  
 General Water Utility Supervisor  
 Golf Course Manager  
 Golf Course Superintendent  
 Golf Starter Supervisor  
 Graphic Communications Manager  
 Graphic Design Supervisor  
 Greenskeeper Supervisor  
 Grounds Maintenance Manager  
 Grounds Maintenance Supervisor  
 Hazardous Materials Program Manager  
 Heating, Ventilating, & Air  
 Conditioning Supervisor  
 Horticulturist  
 Instrumentation and Control Supervisor  
 Investigation Support Manager  
 Land Surveying Associate  
 Latent Print and Forensic Specialist  
 Supervisor  
 Lifeguard Sergeant  
 Marine Biologist III  
 Marine Safety Lieutenant  
 Metal Fabrication Services Supervisor  
 Metal Fabrication Supervisor  
 Motor Sweeper Supervisor  
 Multimedia Production Coordinator  
 Nursery Supervisor  
 Offset Press Supervisor  
 Painter Supervisor  
 Parking Enforcement Supervisor  
 Parking Meter Supervisor  
 Payroll Audit Supervisor - Auditor  
 Payroll Audit Supervisor - Personnel  
 Payroll Supervisor  
 Pesticide Supervisor  
 Plant Process Control Supervisor  
 Plant Technician Supervisor  
 Plumber Supervisor  
 Police Code Compliance Supervisor  
 Police Dispatch Administrator  
 Police Dispatch Supervisor  
 Power Plant Superintendent  
 Power Plant Supervisor  
 Principal City Attorney Investigator  
 Principal Clerk  
 Principal Customer Services  
 Representative  
 Principal Legal Assistant  
 Principal Plan Review Specialist  
 Principal Plant Technician Supervisor  
 Principal Police Records Clerk  
 Principal Procurement Specialist  
 Principal Test Administration Specialist  
 Principal Utility Supervisor  
 Principal Water Utility Supervisor  
 Print Shop Supervisor  
 Project Officer II  
 Property and Evidence Supervisor  
 Public Information Supervisor  
 Public Works Dispatch Supervisor  
 Public Works Superintendent  
 Public Works Supervisor  
 Pump Station Operations Supervisor  
 Ranger/Diver Supervisor  
 Refuse Collection Manager  
 Roofing Supervisor  
 Safety and Training Manager  
 Senior Accounts Payable Audit Clerk  
 Senior Benefits Representative  
 Senior Biologist

Senior Building Maintenance Supervisor  
 Senior Cashier  
 Senior Chemist  
 Senior Civil Engineer  
 Senior Clerk/Typist  
 Senior Code Compliance Supervisor  
 Senior Combination Inspector  
 Senior Communications Engineer  
 Senior Communications Technician  
 Supervisor  
 Senior Customer Services  
 Representative  
 Senior Disposal Site Representative  
 Senior Disposal Site Supervisor  
 Senior Electrical Engineer  
 Senior Electrical Inspector  
 Senior Electrical Supervisor  
 Senior Engineer - Fire Protection  
 Senior Engineering Geologist  
 Senior Housing Inspector  
 Senior Land Surveyor  
 Senior Legal Assistant  
 Senior Legal Secretary  
 Senior Legislative Recorder  
 Senior Library Technician  
 Senior Marine Biologist  
 Senior Mechanical Engineer  
 Senior Mechanical Inspector  
 Senior Meter Reader  
 Senior Park Ranger  
 Senior Parking Enforcement Supervisor  
 Senior Planner  
 Senior Plant Technician Supervisor  
 Senior Police Records Clerk  
 Senior Power Plant Supervisor  
 Senior Property and Evidence  
 Supervisor  
 Senior Structural Inspector  
 Senior Systems Analyst  
 Senior Test Administration Specialist  
 Senior Traffic Engineer  
 Senior Utility Supervisor  
 Senior Wastewater Operations  
 Supervisor  
 Senior Water Operations Supervisor  
 Senior Water Utility Supervisor  
 Sign Shop Supervisor  
 Special Events Traffic Control Supervisor  
 Stadium Maintenance Supervisor  
 Storekeeper II  
 Storekeeper III  
 Stores Operations Supervisor  
 Structural Engineering Senior  
 Supervising Academy Instructor  
 Supervising Cal-ID Technician  
 Supervising Criminalist  
 Supervising Custodian  
 Supervising Disposal Site Representative  
 Supervising Field Representative  
 Supervising Hazardous Materials  
 Inspector  
 Supervising Librarian  
 Supervising Meter Reader  
 Supervising Plan Review Specialist  
 Supervising Property Agent  
 Supervising Public Information Officer  
 Supervising Recreation Specialist  
 Supervising Wastewater Pretreatment  
 Inspector  
 Traffic Signal Supervisor  
 Training Supervisor  
 Tree Maintenance Supervisor  
 Utility Supervisor  
 Wastewater Operations Supervisor  
 Wastewater Pretreatment Program  
 Manager  
 Wastewater Treatment Superintendent  
 Water Distribution Operations  
 Supervisor  
 Water Operations Supervisor  
 Water Production Superintendent  
 Water Systems District Manager  
 Water Systems Technician Supervisor  
 Water Utility Supervisor  
 Work Control Manager

## TECHNICAL UNIT

Administrative Aide I	Mechanical Inspector II
Administrative Aide II	Multimedia Production Specialist
Assistant Laboratory Technician	Personnel Assistant I
Assistant Recreation Center Director	Personnel Assistant II
Buyer's Aide I	Photographer
Buyer's Aide II	Plan Review Specialist I
Cal-ID Technician	Plan Review Specialist II
City Attorney Investigator	Plan Review Specialist III
Claims Aide	Plan Review Specialist IV
Claims Representative I	Planning Technician I
Claims Representative II	Planning Technician II
Code Compliance Officer	Planning Technician III
Combination Inspector I	Police Code Compliance Officer
Combination Inspector II	Police Dispatcher
Data Entry Operator	Police Investigative Aide I
Dispatcher I	Police Investigative Aide II
Dispatcher II	Police Lead Dispatcher
Dispute Resolution Officer	Pool Guard I
Document Examiner I	Pool Guard II
Document Examiner II	Principal Drafting Aide
Document Examiner III	Principal Engineering Aide
Drafting Aide	Principal Survey Aide
Electrical Inspector I	Principal Traffic Engineering Aide
Electrical Inspector II	Public Service Career Trainee
Electronic Publishing Specialist	(if target class is in this unit)
Engineering Trainee	Public Works Dispatcher
Fire Dispatcher	Ranger/Diver I
Fleet Parts Buyer	Ranger/Diver II
Forensic Alcohol Analyst	Recreation Aide
Forensic Specialist	Recreation Leader I
Graphic Designer	Recreation Leader II
Housing Inspector I	Safety Representative I
Housing Inspector II	Safety Representative II
Hydrography Aide	Senior City Attorney Investigator
Information Systems Technician	Senior Claims Representative
Interview and Interrogation Specialist I	Senior Data Entry Operator
Interview and Interrogation Specialist II	Senior Drafting Aide
Interview and Interrogation Specialist III	Senior Engineering Aide
Junior Engineering Aide	Senior Survey Aide
Laboratory Assistant	Senior Zoning Investigator
Laboratory Technician	Structural Inspector I
Lake Aide I	Structural Inspector II
Lake Aide II	Student Engineer
Latent Print Examiner I	Swimming Pool Manager I
Latent Print Examiner II	Swimming Pool Manager II
Legal Assistant	Swimming Pool Manager III
Lifeguard I	Victim Services Coordinator
Lifeguard II	Water Systems Technician IV
Lifeguard III	Zoning Investigator I
Litter Control Inspector (Terminal)	Zoning Investigator II
Mechanical Inspector I	



## **“Actuarial Audit” Project**

### **Original Scope**

### **Pension Reform Committee Needs**

<p>Evaluation of economic assumptions for appropriateness.</p> <p><u>As to the latest actuarial valuation as of June 30, 2002, the audit shall include but not be limited to the following objectives:</u></p> <p>Evaluation of the available data for the performance of such valuation, the degree to which such data is sufficient to support the conclusions of the valuation and the use and appropriateness of any assumptions made regarding such data.</p> <p>Evaluation of economic assumptions for appropriateness.</p> <p>Appropriateness of funding methodology, amortization period and resultant contribution rates.</p> <p>Evaluation of actuarial asset smoothing method.</p> <p>Evaluation of recommended adjustments.</p> <p>Relative to current and recent past industry norms, how significant is the System’s current and projected (based on the current Manager’s Proposal) underfunding? If deemed to be significant, what are the potential alternative solutions?</p>	<p>Model out necessary City pension payment to CERS by year and show the required percent of City Budget they will represent.</p> <p>Develop alternatives if the above drain on City Budget is perceived unachievable.</p> <p>Fund current shortfalls with pension bonds; model this out for annual impact on City Budget.</p> <p>Replace current define benefit plan with define contribution plan.</p> <p>Mandate immediate full funding on any new benefit increases with a specified, say 10 years, maximum on funding of any past service obligation resulting from the new benefit.</p> <p>Benchmark current level of pension benefits, employee contributions, etc. against other government agencies and against private industry norms, adjusting for employee contributions to and benefits from social security.</p> <p>The City has extended retiree health benefits to all employees. The City is not funding this liability on an actuarial basis. The City is not even paying current cash costs of current retiree population’s health insurance – rather these costs are being paid out of CERs “excess earnings”. As a result, if these benefits are to be paid in the future to all current employees, there will be a huge burden on future taxpayers for today’s employment costs.</p> <p>Model out on an actuarial basis, the necessary annual funding payments for this liability and show what percent of the City budget this represents.</p> <p>To clear the current uncertainty and conflicting allegations, analyze and conclude on the causes of the current under funded status of CERS, starting say in 1990.</p> <p>Shortfall of City contributions versus true actuarial requirements.</p> <p>Granting of new benefits without corresponding full funding, and the past service obligation created even if full funding of new normal costs.</p> <p>Dissipation of plan assets for “contingent benefits”.</p> <p>Distribution of plan assets for disability pensions relative to assumption for such in actuarial formulas.</p> <p>Determine whether/which “contingent” benefits should be deemed vested benefits.</p> <p>Eliminate the “bells and whistles” which have been added to the basic vanilla defined benefit pension plan (e.g. drop and purchased service credits).</p> <p>Review and pass judgment on the key actuarial assumptions being used by CER’s, particularly the earnings assumption of 8% in light of today’s economy.</p>
---	--

1 **MICHAEL A. CONGER, ESQUIRE (State Bar #147882)**  
 2 **LAW OFFICES OF MICHAEL A. CONGER**  
 3 2169 First Avenue  
 4 San Diego, CA 92101  
 5 Telephone (619) 234-1511  
 6 Facsimile (619) 230-1074

7 Attorneys for Plaintiffs WILLIAM J. CORBETT;  
 8 DONALD B. ALLEN; LEONARD LEE MOORHEAD;  
 9 and GORDON L. WILSON; individually, and on behalf of  
 10 all others similarly situated

11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SAN DIEGO**

10 WILLIAM J. CORBETT; DONALD B. ALLEN;  
 11 LEONARD LEE MOORHEAD; and GORDON L.  
 12 WILSON; individually, and on behalf of  
 13 all others similarly situated,

14 Plaintiffs,

15 v.

16 CITY EMPLOYEES' RETIREMENT SYSTEM;  
 17 and DOES 1 through 50, inclusive,

18 Defendants.

19 CITY OF SAN DIEGO,

20 Real Party in Interest.

21 CITY EMPLOYEES' RETIREMENT SYSTEM  
 22 and CITY OF SAN DIEGO,

23 Cross-Complainants,

24 v.

25 WILLIAM J. CORBETT; DONALD B. ALLEN;  
 26 LEONARD LEE MOORHEAD; AND GORDON  
 27 L. WILSON; individually and on behalf of all  
 28 others similarly situated, and DOES 1 through  
 10,000, inclusive,

Cross-Defendants.

CASE NO: 722449

I/C Judge: Robert E. May  
 Dept: 63  
 Action Date: July 16, 1998

**NOTICE OF ENTRY OF  
 JUDGMENT**  
 [CCP §664.5(a)]

1 AND RELATED COMPLAINTS IN )  
INTERVENTION BY INTERVENERS SAN )  
2 DIEGO MUNICIPAL EMPLOYEES' )  
ASSOCIATION; SAN DIEGO CITY )  
3 FIREFIGHTERS LOCAL 145, IAAF, AFL-CIO; )  
LOCAL 127, AMERICAN FEDERATION OF )  
4 STATE, COUNTY AND MUNICIPAL )  
EMPLOYEES, AFL-CIO; AND SAN DIEGO )  
5 POLICE OFFICERS ASSOCIATION. )  
6

7 **TO: DEFENDANT, CROSS-COMPLAINANTS AND REAL PARTY IN INTEREST,**  
8 **AND THEIR ATTORNEYS OF RECORD:**

9 NOTICE IS HEREBY GIVEN that on the 17th day of May, 2000, judgment was entered  
10 in the above-entitled action. A conformed copy of the Judgment is attached to this Notice of  
11 Entry of Judgment.  
12

13 Dated: May 19, 2000

**LAW OFFICES OF MICHAEL A. CONGER**

14  
15 By: 

16 MICHAEL A. CONGER  
17 Attorneys for Plaintiffs and Cross-Defendants,  
18 William J. Corbett, Donald B. Allen, Leonard Lee  
19 Moorhead and Gordon L. Wilson  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Tab #1**

FILED  
STEPHEN THUNBERG  
Clerk of the Superior Court

MAY 17 2000

By: BARBARA J. JONES, Deputy  
RECORDED MAY 15 2000 PM 4:17

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO

WILLIAM J. CORBETT; DONALD B.  
ALLEN; LEONARD LEE MOORHEAD;  
and GORDON L. WILSON; individually, and  
on behalf of all others similarly situated,

Plaintiffs,

v.

CITY EMPLOYEES' RETIREMENT SYSTEM;  
and DOES 1 through 50, inclusive,

Defendants.

CITY OF SAN DIEGO,

Real Party in Interest.

CITY EMPLOYEES' RETIREMENT SYSTEM  
and CITY OF SAN DIEGO,

Cross-Complainants,

v.

WILLIAM J. CORBETT; DONALD B.  
ALLEN; LEONARD LEE MOORHEAD;  
AND GORDON L. WILSON; individually  
and on behalf of all others similarly situated,  
and DOES 1 through 10,000, inclusive,

Cross-Defendants.

CASE NO: 722449

I/C Judge: Robert E. May

Dept: 63

Action Date: July 16, 1998

~~PROPOSED~~  
ORDER AND JUDGMENT  
APPROVING SETTLEMENT  
OF CLASS ACTION

1 AND RELATED COMPLAINTS )  
IN INTERVENTION BY INTERVENERS )  
2 SAN DIEGO MUNICIPAL )  
EMPLOYEES' ASSOCIATION; SAN DIEGO )  
3 CITY FIREFIGHTERS LOCAL 145, IAAF, )  
AFL-CIO; LOCAL 127, )  
4 AMERICAN FEDERATION OF STATE, )  
COUNTY AND MUNICIPAL EMPLOYEES, )  
5 AFL-CIO; AND SAN DIEGO POLICE )  
OFFICERS ASSOCIATION. )  
6

---

7  
8 This matter comes on for a hearing this 12th day of May, 2000, in Department 63 of the  
9 Superior Court of the State of California, in and for the County of San Diego, the Honorable Robert  
10 E. May, on a motion brought concurrently by each party and intervener to approve the terms of a  
11 settlement. Appearing for the plaintiffs and plaintiffs in intervention were Michael A. Conger, Ann  
12 M. Smith, Ann M. Smith specially appearing for Anthony R. Segall, Joel N. Klevens, and Richard  
13 H. Castle. David B. Hopkins appeared for the defendant, the real party in interest and cross-  
14 complainants.

15 Based on the arguments and evidence presented, and after due consideration of the factors  
16 as set forth in *Dunk v. Ford Motor Company* (1996) 48 Cal.App.4th 1794, 1801, and of the four  
17 objections the court has received to the proposed settlement,

18 IT IS ORDERED, ADJUDGED AND DECREED that the proposed settlement as set forth  
19 in the "Notice of Proposed Settlement of Class Action," filed April 4, 2000 (and attached at Tab #1),  
20 clarified by the terms set forth in the "Clarification of Settlement Terms" (attached at Tab #2) is  
21 approved by the court.

22  
23 Date: MAY 17 2000

**ROBERT E. MAY**

24 HON. ROBERT E. MAY  
Superior Court of The State of California  
25 County of San Diego  
26  
27  
28

**FILED**  
STEPHEN THUNBERG  
Clerk of the Superior Court

**APR 04 2000**

By: BARBARA J. JONES, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO (CENTRAL DIVISION)

WILLIAM J. CORBETT; DONALD B. ALLEN;  
LEONARD LEE MOORHEAD; AND GORDON L.  
WILSON; individually and on behalf of those similarly  
situated,

Plaintiffs,

vs.

CITY EMPLOYEES' RETIREMENT SYSTEM and  
DOES 1 through 50, inclusive.,

Defendants.

CASE NO. 722449

NOTICE OF  
PROPOSED SETTLEMENT  
OF CLASS ACTION

CITY OF SAN DIEGO,

Real Party in Interest.

RELATED COMPLAINTS IN INTERVENTION BY  
INTERVENERS SAN DIEGO MUNICIPAL  
EMPLOYEES' ASSOCIATION; SAN DIEGO CITY  
FIREFIGHTERS LOCAL 145, IAAF, AFL-CIO; LOCAL  
127, AMERICAN FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES, AFL-CIO; AND SAN  
DIEGO POLICE OFFICERS ASSOCIATION

I/C Judge Robert E. May  
Dept. 63  
Date May 12, 2000  
Time: 11:30 a.m.  
Complaint Filed: July 16, 1998

AND RELATED CROSS-ACTIONS.

**NOTICE TO CLASS MEMBERS OF PROPOSED SETTLEMENT  
IMPORTANT NOTICE ABOUT YOUR RETIREMENT BENEFITS  
FROM THE SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO**

**NOTICE OF PROPOSED  
SETTLEMENT OF CLASS ACTION**

## I.

INTRODUCTION

Please read this Notice carefully if you either currently receive, or will be entitled to receive in the future, retirement benefits from the San Diego City Employees' Retirement System ("SDCERS") as a result of employment with the City of San Diego ("THE CITY"), or are otherwise a member of the "PLAINTIFF CLASS," as described below. A copy of this Notice will also be posted on THE CITY's web site: [www.ci.san-diego.ca.us](http://www.ci.san-diego.ca.us); go to City Hall and then to the City Attorney Section.

The named parties and their counsel of record have reached a proposed Settlement of this case. To become effective, the proposed Settlement must be approved by the Court. To determine whether the Court should approve the proposed Settlement, there will be a hearing on May 12, 2000, at 11:30 a.m. before the Honorable Robert E. May in Department 63 of the Superior Court for the State of California, County of San Diego, located at 330 West Broadway, San Diego, California 92101. The hearing will continue through the lunch hour, and thereafter until it is completed.

If you are a member of the "PLAINTIFF CLASS" and wish to object to the proposed Settlement, you have an opportunity to do so by following the procedures set out in this Notice. You may attend the May 12 hearing in any event, whether you object to the proposed Settlement or not. It is possible that there will also be a hearing on or before that date on the issue of attorneys' fees. If so, you will be advised by a separate Notice. Attorneys' fees are discussed more completely below, starting on page 9.

If the Settlement is approved by the Court, and if you are a member of the "PLAINTIFF CLASS," the Settlement will be binding on you whether or not you have objected to the Settlement. If the Settlement is approved, the "PLAINTIFF CLASS" will receive certain increased retirement benefits or disability retirement benefits, and each member is giving up his/her right to trial and giving up all claims which could have been brought or pursued in this lawsuit concerning the definition of Compensation, base compensation, Compensation Earnable or Final Compensation under the Municipal Code for purposes of calculating retirement benefits payable by SDCERS.

///



1 THE PLAINTIFF CLASS CONSISTS OF ALL PERSONS WHO MAY CLAIM ANY  
2 RIGHT, WHETHER OR NOT CURRENTLY VESTED, TO RECEIVE RETIREMENT BENEFITS  
3 FROM THE SAN DIEGO CITY EMPLOYEES RETIREMENT SYSTEM ("SDCERS") AS A  
4 RESULT OF EMPLOYMENT BY THE CITY OF SAN DIEGO ("THE CITY"), INCLUDING BUT  
5 NOT LIMITED TO ALL SUCH CURRENT EMPLOYEES OF THE CITY (INCLUDING THOSE  
6 WHO HAVE ELECTED TO PARTICIPATE IN THE DEFERRED RETIREMENT OPTION PLAN  
7 ("DROP")), FORMER EMPLOYEES OF THE CITY WHOSE RETIREMENT BENEFITS MAY  
8 BE DEFERRED, RETIRED FORMER EMPLOYEES OF THE CITY CURRENTLY RECEIVING  
9 RETIREMENT BENEFITS FROM SDCERS, ALL CURRENT MEMBERS OF SDCERS AS A  
10 RESULT OF EMPLOYMENT BY THE CITY, AND PERSONS WHO MAY CLAIM  
11 RETIREMENT BENEFITS FROM SDCERS AS A RESULT OF SOME OTHER PERSON'S  
12 CURRENT OR PAST EMPLOYMENT BY THE CITY, SUCH AS AS A BENEFICIARY,  
13 SURVIVOR, SUCCESSOR IN INTEREST, OR AS A PAYEE UNDER A DOMESTIC  
14 RELATIONS ORDER ("DRO") RELATING TO THE RETIREMENT BENEFITS OF ANOTHER  
15 PERSON WHO IS OR WAS A CURRENT OR FORMER EMPLOYEE OF THE CITY. THE  
16 LAWSUIT CONCERNS THE CALCULATION OF RETIREMENT BENEFITS PAID BY  
17 SDCERS TO ALL MEMBERS OF THE CLASS AS A RESULT OF ANY EMPLOYMENT WITH  
18 THE CITY, AND THE CONTRIBUTIONS REQUIRED TO BE PAID TO RECEIVE THOSE  
19 BENEFITS.

20 II.

21 PROCEDURAL HISTORY AND NATURE OF THE CLAIMS

22 Plaintiffs William J. Corbett, Donald B. Allen, Leonard Lee Moorhead and Gordon L. Wilson  
23 filed this action on July 16, 1998 and filed a First Amended Complaint on October 28, 1998.  
24 Generally, plaintiffs alleged that retirement benefits paid by SDCERS as a result of employment by  
25 THE CITY had not been properly calculated in light of the California Supreme Court's August 1997  
26 decision in Ventura County Deputy Sheriff's Association v. Board of Retirement of Ventura County  
27 Employees' Retirement Association.

28 ///

1 In Ventura, the California Supreme Court ruled that the Retirement Board in that case was  
2 required to classify certain payments made by the County of Ventura to its employees over and above  
3 their basic salaries as "compensation earnable" and to include those payments in "final  
4 compensation" used to calculate the amount of monthly pension benefits payable to the retired  
5 employees under the County Employees' Retirement Law of 1937 ("CERL"), Government Code  
6 Section 31450, *et seq.* Plaintiffs in this case allege that the same rationale should be applied to  
7 certain payments made by THE CITY.

8 On February 3, 1999, Defendant SDCERS and Real Party in Interest THE CITY filed an  
9 Answer and Cross-Complaint alleging, generally, that retirement benefits have been properly  
10 calculated and paid under applicable law and according to agreements and long-standing practices  
11 and, in the alternative, that, if retirement benefits must be increased to certain payees, the Court must  
12 also determine the allocation among the parties of the costs of those increased benefits.

13 Thereafter, the following four unions intervened on behalf of their bargaining units. The  
14 union plaintiffs in intervention are: the Municipal Employees Association (MEA); Firefighters  
15 Local 145; AFSCME Local 127; and the San Diego Police Officer's Association (POA). Generally,  
16 each of the four unions asserts that, as the exclusive bargaining agent for certain active employees,  
17 it has an interest in the outcome of this litigation and the issues presented herein.

18 On November 19, 1999, the Court signed an order certifying this case as a class action,  
19 because the outcome of the case was likely to impact all SDCERS members who claim any right to  
20 receive retirement or disability retirement benefits from SDCERS as a result of employment by THE  
21 CITY, whether they were actively involved in the case or not. The Court also ordered that all  
22 members of the PLAINTIFF CLASS be notified that this case was pending and could affect the  
23 rights of members of the PLAINTIFF CLASS. A Notice of Pendency of Class Action was approved  
24 by the Court and delivered to members of the PLAINTIFF CLASS in February and March 2000.  
25 On March 10, 2000, the Court scheduled a hearing on the plaintiffs' planned petition for a writ of  
26 mandate for May 26, 2000.

27 On March 1 and March 13, 2000, all of the parties and counsel in this case participated in a  
28 mediation with Howard B. Wiener, a retired Justice of the Court of Appeal of the State of California.

1 As a result of the mediation, the parties and counsel were able to reach an agreement to settle the  
2 case. Each of the parties and counsel recognized that the litigation presented risks, and that the case  
3 could result in an outcome more favorable or less favorable to any party.

4 III.

5 **DESCRIPTION OF THE SETTLEMENT**

6 A. **Proposed Settlement for All Class Members (or Their Beneficiaries) who are**  
7 **Vested Retired Members of SDCERS as a Result of Employment with the City**  
8 **or Retired From Employment by the City of San Diego on or Before July 1, 2000.**

8 If you are receiving retirement benefits, or disability retirement benefits, from SDCERS as  
9 a result of active employment with THE CITY that terminated on or before July 1, 2000 (including  
10 former DROP participants who have ceased active employment prior to July 1, 2000), or if you are  
11 a vested deferred member of SDCERS as a result of employment with THE CITY, your retirement  
12 benefit payment (with the exception of the Supplemental COLA adjustment and the Annual  
13 Supplemental Benefit (the "13<sup>th</sup> check")) will increase by a simple seven per cent (7%), both  
14 prospectively and retroactively. This seven per cent (7%) will apply to all such retirement benefit  
15 payments you (or your DROP account) have received since July 1, 1995, and will receive in the  
16 future. You will receive the retroactive payment in a single lump sum payment in approximately late  
17 October, 2000 at the time the Annual Supplemental Benefit (the "13<sup>th</sup> check") is normally  
18 distributed. If you have chosen to leave the balance of your DROP account retained by SDCERS,  
19 you may elect to have your retroactive payment deposited in that account.

20 Each year, these payments are contingent on SDCERS having sufficient Surplus  
21 Undistributed Earnings to pay them under the section of the Municipal Code concerning the use of  
22 SDCERS Surplus Undistributed Earnings (SDMC § 24.1502) after the Annual Supplemental Benefit  
23 (the "13<sup>th</sup> check"). To the extent these amounts are not paid in any year because there are insufficient  
24 Surplus Undistributed Earnings, they will be carried forward as a contingent liability which will be  
25 paid in future years in which there are sufficient Surplus Undistributed Earnings to pay them under  
26 the statute. Liabilities carried forward will be paid in the order in which they accrued.

27 Each year, the right to receive these payments will be accrued monthly. However, they will  
28 be paid annually, subject to the contingency, approximately five months after the close of SDCERS

1 fiscal year (at the time the Annual Supplemental Benefit (the "13<sup>th</sup> check") is normally distributed).  
2 Thus, subject to the contingency, in approximately October 2000, the retroactive payment will be  
3 distributed and in approximately October 2001, the seven percent (7%) increased benefit for the  
4 fiscal year July 1, 2000 through June 30, 2001 will be distributed.

5        Payments pursuant to this proposed Settlement will be paid with respect to estates of retired  
6 members only in the event there is a designated beneficiary eligible for a continuance (hereinafter,  
7 "Beneficiary") to the retirement benefit and, in that event, will be paid only to the designated  
8 Beneficiary at the time the payment is made. As a hypothetical example, if a member who was  
9 retired prior to July 1, 1995 died on June 30, 1997 and designated a Beneficiary, the retroactive  
10 payment paid to the Beneficiary will be seven percent (7%) of the full retirement benefit for the two-  
11 year period from July 1, 1995 through June 30, 1997 and seven percent (7%) of the Beneficiary's  
12 benefit for the remaining three years of the retroactive period. (In both instances, the retirement  
13 benefit excludes any Supplemental COLA adjustment and the Annual Supplemental Benefit (the  
14 "13<sup>th</sup> check")). Similarly, as another hypothetical example, if a retired member should die on  
15 December 15, 2000 and designate a Beneficiary, and there are sufficient Surplus Undistributed  
16 Earnings to pay the seven percent (7%) increase for the fiscal year starting July 1, 2000, the  
17 Beneficiary will receive, in approximately October 2001, a sum equal to seven percent (7%) of the  
18 full retirement benefit for the five-month period July through November 2000 and seven percent  
19 (7%) of the Beneficiary benefit for the seven-month period December 2000 through June 2001.  
20 (Again, in both instances, the retirement benefit is calculated with the exception of the Supplemental  
21 COLA Adjustment and the Annual Supplemental Benefit (the "13<sup>th</sup> check")). If there is no  
22 designated Beneficiary with respect to the account, there will be no payments under the proposed  
23 Settlement with respect to any estate of a retired member who dies prior to a payment date.

24        The increased retirement benefit payment described in this section will not be paid to Special  
25 Safety Class members (also known as "the fluctuaters") or their beneficiaries because their  
26 retirement benefits are not based on the Municipal Code provisions concerning the definition of  
27 Compensation, base compensation, Compensation Earnable or Final Compensation.

28 ///

1 The seven percent (7%) increase in retirement benefits paid to retired members of the  
2 PLAINTIFF CLASS is less than the ten percent (10%) increase that active employees may elect to  
3 receive (as described below), because retired employees did not make contributions to SDCERS  
4 during the period of their employment for these increased benefits, while active employees will make  
5 contributions for their increased benefits in the future.

6 **B. Proposed Settlement for All Active Employee "Safety Members" as Defined by**  
7 **the San Diego Municipal Code.**

8 If you are employed by THE CITY at any time on or after July 1, 2000, and are classified as  
9 a Lifeguard or a Safety Member of SDCERS, you will be allowed, as a vested benefit, to make an  
10 election at the time of your retirement between the following two choices for the calculation of your  
11 retirement benefit (with the exception of the Supplemental COLA adjustment and the Annual  
12 Supplemental Benefit (the "13<sup>th</sup> check")):

- 13 1. Your Retirement Calculation Factor will be increased from 2.5% (2.2% for  
14 Lifeguards) at age 50 to 3.0% at age 50 and all subsequent years; or
- 15 2. Your retirement benefit will be calculated on the basis of the Retirement Calculation  
16 Factors in effect on June 30, 2000, and your retirement benefit (with the exclusion of  
17 the Supplemental COLA adjustment and the annual Supplemental Benefit (the "13<sup>th</sup>  
18 check")) so computed will be increased by ten per cent (10%).

19 Starting on July 1, 2001, which is one year after the Effective Date of the Settlement (July 1,  
20 2000), your employee contribution to SDCERS will increase by an amount to be determined by  
21 SDCERS' actuary (currently estimated to be 1.23% for Lifeguards and .53% for other Safety  
22 members) as the employee normal contribution to fund the payment of additional retirement benefits.  
23 Your employee contribution will not increase to pay for the additional cost of the choice described  
24 above (currently estimated to be .16%). That amount will be paid from an existing SDCERS reserve  
25 for employee benefits until that reserve is exhausted (estimated to occur in approximately 20 years).

26  
27  
28 ///

1 **C. Proposed Settlement for All Active Employee "General Members" as Defined in**  
2 **the San Diego Municipal Code.**

3 If you are employed by THE CITY at any time on or after July 1, 2000, and are classified as  
4 a General Member of SDCERS, you will be allowed, as a vested benefit, to make an election at the  
5 time of your retirement between the following two choices for the calculation of your retirement  
6 benefit (with the exception of the Supplemental COLA adjustment and the Annual Supplemental  
7 Benefit (the "13<sup>th</sup> check")):

- 8 1. Your Retirement Calculation Factor will be increased from 2.0% at age 55 (stepping  
9 up to 2.55% at age 65 and all subsequent years) to 2.25% at age 55 (stepping up to  
10 2.55% at age 65 and all subsequent years); or
- 11 2. Your retirement benefit will be calculated on the basis of the Retirement Calculation  
12 Factors in effect on June 30, 2000, and your retirement benefit (with the exclusion of  
13 the Supplemental COLA adjustment and the Annual Supplemental Benefit (the "13<sup>th</sup>  
14 check")) so computed will be increased by ten per cent (10%).

15 Starting on July 1, 2001, which is one year after the Effective Date of the Settlement (July 1,  
16 2000), your employee contribution to SDCERS will increase by an amount to be determined by  
17 SDCERS' actuary (currently estimated to be .49%) as the employee normal contribution to fund the  
18 payment of additional retirement benefits. Your employee contribution will not increase to pay for  
19 the additional cost of the choice described above (currently estimated to be .16%). That amount will  
20 be paid from an existing SDCERS reserve for employee benefits until that reserve is exhausted  
21 (estimated to occur in approximately 20 years.)

22 **D. Proposed Settlement for All Active Employee "Legislative Members" as Defined**  
23 **in the San Diego Municipal Code.**

24 If you are employed by THE CITY at any time on or after July 1, 2000, and are classified as  
25 a Legislative Member of SDCERS, your retirement benefit will be calculated on the basis of the  
26 Retirement Calculation Factors in effect as of June 30, 2000 and your retirement benefit (with the  
27 exclusion of the Supplemental COLA adjustment and the Annual Supplemental Benefit (the "13<sup>th</sup>  
28 check")) so computed will be increased by ten per cent (10%), as a vested benefit. Your employee

1 contribution will increase to pay for this increased benefit in the same amounts as are currently  
2 estimated for General Members (.49%, plus .16%), which will be paid in the same manner and on  
3 the same schedule as for General Members.

4 **E. Proposed Settlement for All Currently Employed DROP Participants.**

5 If you have elected, or elect prior to July 1, 2000, to participate in THE CITY's Deferred  
6 Retirement Option Program ("DROP"), and are still actively employed by THE CITY as of July 1,  
7 2000, any retirement benefit payments payable into your DROP account prior to July 1, 2000 (with  
8 the exception of any Supplemental COLA adjustment and the Annual Supplemental Benefit (the  
9 "13<sup>th</sup> check")) will be increased by seven per cent (7%) (the "Retroactive Payment"), and all such  
10 retirement benefit payments to be made on or after July 1, 2000, into your DROP account or  
11 otherwise, will be increased by ten per cent (10%) (the "Prospective Payment"). Your Retroactive  
12 Payment will be paid in approximately October 2000 at the time the Annual Supplement Benefit (the  
13 "13<sup>th</sup> check") is normally distributed. Your Retroactive Payment is contingent on SDCERS having  
14 sufficient Surplus Undistributed Earnings to pay it under the section of the Municipal Code  
15 concerning the use of SDCERS Surplus Undistributed Earnings (SDMC § 24.1502) after the Annual  
16 Supplemental Benefit (the "13<sup>th</sup> check"). To the extent the Retroactive Payment is not paid in any  
17 year because there are insufficient Surplus Undistributed Earnings, it will be carried forward as a  
18 contingent liability which will be paid in future years in which there are sufficient Surplus  
19 Undistributed Earnings to pay it under the statute. Liabilities carried forward will be paid in the  
20 order in which they accrued. Your ten percent (10%) Prospective Payment described above is not  
21 contingent and is a vested benefit.

22 **F. Payment of Attorneys' Fees.** SDCERS and THE CITY have tentatively agreed with counsel  
23 for Plaintiffs and the Intervenors to pay them a specific total amount in satisfaction of all their claims  
24 for attorneys' fees and costs incurred and to be incurred with respect to this case. The tentative  
25 agreement is subject only to the approval of the governing bodies of SDCERS and THE CITY,  
26 respectively, at meetings scheduled to take place during the week of April 10, 2000. If the tentative  
27 agreement regarding attorneys' fees and costs is approved, you will not have to pay any attorneys'  
28 ///

1 fees or costs with respect to this case, nor will there be any deductions from payments you receive  
2 pursuant to the proposed settlement.

3 Starting the afternoon of April 14, 2000, you may learn whether the tentative agreement  
4 regarding reasonable attorneys' fees has been approved and, if so, the amount of the reasonable  
5 attorneys' fees and costs to be paid collectively by SDCERS and THE CITY, by accessing THE  
6 CITY'S web site at [www.ci.san-diego.ca.us](http://www.ci.san-diego.ca.us) and going first to City Hall and then to the City Attorney  
7 Sections. In the alternative, you can receive that information starting the afternoon of April 14, 2000  
8 by calling 619-236-7373 to receive a recorded message.

9 If the tentative agreement regarding attorneys' fees and costs is NOT approved, in addition  
10 to being so advised on the web site, you will also be advised of the schedule on which the Court will  
11 hear motion(s) to be filed by Counsel for the PLAINTIFF CLASS and SUB-CLASSES to recover  
12 reasonable attorneys' fees and costs, and how this issue might affect the proposed Settlement.

#### 13 IV.

#### 14 TIMING, PROCEDURES, CONDITIONS AND EFFECTIVE DATE

15 A condition precedent to the Settlement is confirmation from the SDCERS actuary that the  
16 terms of the proposed Settlement will not cause the SDCERS funded ratio to fall below 90% as of  
17 July 1, 2000. This condition has been satisfied with respect to the payments to be made to the  
18 PLAINTIFF CLASS.

19 This Notice contains the terms of the proposed Settlement. Once approved by the Court, this  
20 Notice becomes the Settlement and this Notice becomes the formal and complete Settlement  
21 Agreement.

22 If the proposed Settlement is approved by the Court, THE CITY must pass necessary  
23 ordinances to implement it. Conditions subsequent to the Settlement will be the approval of those  
24 ordinances by the SDCERS membership as required by the San Diego Municipal Code, and a  
25 determination by counsel for the PLAINTIFF CLASS and SUB-CLASSES that the ordinances  
26 effectively implement the Settlement.

27 Nothing in this Settlement shall be deemed to grant to any party any approval rights over any  
28 other actions of THE CITY. All parties acknowledge that THE CITY is considering changing



1 portions of the Municipal Code affecting the SDCERS Retirement Plan, including changing or  
2 eliminating the provisions concerning Compensation, base compensation, Compensation Earnable,  
3 and/or Final Compensation, and that nothing in this Settlement shall affect in any way the power of  
4 THE CITY to do so or the negotiating right of THE CITY's labor organizations.

5 If the conditions subsequent are not satisfied, the Settlement is void and the litigation will  
6 resume.

7 If the Court approves the Settlement, the effective date will be July 1, 2000, and all  
8 entitlements to payments under the Settlement will accrue as of that date. Nevertheless, SDCERS  
9 may not make payments as required under the Settlement until after the conditions subsequent have  
10 been satisfied.

11 V.

12 THE SETTLEMENT HEARING AND OPTIONS OF CLASS MEMBERS

13 Because of the nature of this lawsuit, you will not have an opportunity to be excluded from  
14 the Settlement of this case if it is approved by the Court. That means that, if and when the  
15 Settlement is approved by the Court, you will be bound by it. If you wish you may, however, object  
16 to the terms of the Settlement.

17 If you object to the terms of the Settlement, you may appear in person or through your  
18 attorney and be heard in opposition. You may object on the grounds of the fairness, reasonableness,  
19 and adequacy of the Settlement by delivering no later than May 4, 2000 to counsel for your SUB-  
20 CLASS at the address set out below documentary proof that you are a member of the Settlement  
21 class and a written statement of the basis of your objection. Mr. Conger will provide to the Court  
22 and all other counsel copies of any objections, together with an index, by May 8, 2000.

23 VI.

24 NOTICE OF ATTORNEYS OF RECORD

25 If you submit any objections or other papers regarding the proposed Settlement, a copy should  
26 be sent to the attorney for your Sub-Class at the address listed below:

27  
28 ///

1. **Michael A. Conger, Esq.**, Law Offices of Michael Conger, 2169 First Avenue, San Diego, CA 92101, phone (619) 234-1511, fax (619) 230-1074; e-mail: [congermike@aol.com](mailto:congermike@aol.com), attorney for both "Sub-classes A and F," which consist of:

**Sub-class A:** All former employees of the CITY who are classified as retired by SDCERS (including those who have elected to participate in the Deferred Retirement Option Plan ("DROP")); and

**Sub-class F:** All other persons not included in Sub-classes A, B, C, D, or E, as described here, who are in the class (that is, all persons who may claim any right, whether or not currently vested, to receive retirement benefits from SDCERS as a result of employment by the CITY), but who are not members of any of Sub-classes A through E. This sub-class includes current employees who are legislative officers, unclassified employees and unrepresented employees (including those who have elected to participate in the Deferred Retirement Option Plan ("DROP")). This sub-class also includes all persons who may claim any right, whether or not currently vested, to receive retirement benefits from SDCERS as a result of any other person's current or past employment by the CITY (including those who have elected to participate in the Deferred Retirement Option Plan ("DROP")), including as a current or former employee's beneficiary, survivor, or successor in interest, or as a payee under a Domestic Relations Order relating to the retirement benefits of some other person currently or formerly employed by the CITY.

2. **Ann M. Smith, Esq.** of Tosdal Levine Smith & Steiner, 600 B Street, Suite 2100, San Diego, CA 92101, phone (619) 239-7200, fax (619) 239-6048; e-mail [ASMITH@tlsslaw.com](mailto:ASMITH@tlsslaw.com), attorney for "Sub-class B," which consists of:

All current employees of the CITY (including those who have elected to participate in the Deferred Retirement Option Plan ("DROP")) employed in positions within any of the following bargaining units represented by San Diego Municipal Employees' Association ("MEA") as exclusive bargaining agent: (1) Administrative and Field Support, or (2) Technical, or (3) Professional, or (4) Supervisory. Plaintiff in Intervention MEA shall be the representative of all members of Sub-Class B.

3. **Joel N. Klevens, Esq.** of Fogel, Feldman, Ostrov, Ringler & Klevens, 1620 26<sup>th</sup> St., Ste. 100 South Tower, Santa Monica, CA 90404-6711, phone (310) 453-6711, fax (310) 828-2191; e-mail: [JoelK@FFORK.com](mailto:JoelK@FFORK.com), attorney for "Sub-class C," which consists of:

All current employees of the CITY (including those who have elected to participate in the Deferred Retirement Option Plan ("DROP")) who are represented by San Diego City Firefighters Local 145, IAAF, AFL-CIO ("Firefighters Local 145") as exclusive bargaining agent and are employed as either a: (1) Fire Recruit; (2) Fire Fighter I; (3) Fire Fighter II; (4) Fire Engineer; (5) Fire Captain; (6) Fire Battalion Chief;

(7) Fire Prevention Inspector I; (8) Fire Prevention Inspector II; (9) Fire Prevention Supervisor; (10) Assistant Fire Marshall; (11) Emergency Medical Technician; (12) Paramedic I; (13) Paramedic II; or (14) Medical Operations Coordinator. Plaintiff in Intervention Firefighters Local 145 shall be the representatives of all members of Sub-Class C.

4. Anthony R. Segall, Esq. of Rothner, Segall & Greenstone 200 East Del Mar Boulevard, Suite 200, Pasadena, CA 91105-2544, phone (626) 796-7555, fax (626) 577-0124, attorney for Sub-Class D, which consists of:

All current employees of the CITY (including those who have elected to participate in the Deferred Retirement Option Plan ("DROP")) employed in positions within the Maintenance, Labor, Skilled Trades and Equipment Operator Unit represented by Local 127, American Federation of State, County and Municipal Employees, AFL-CIO, ("AFSCME Local 127") as exclusive bargaining agent.

5. Richard H. Castle, Jr., Esq., of Castle & Krause, 41877 Enterprise Circle North, Suite 140, Temecula, CA 92590, phone (909) 694-8884, fax (909) 699-8634, attorney for Sub-Class E, which consists of:

All current employees of the CITY of San Diego (including those who have elected to participate in the Deferred Retirement Option Plan ("DROP")) who are represented by the San Diego Police Officers Association ("POA") as exclusive bargaining agent.

6. David B. Hopkins, Esq., Hillyer & Irwin, 500 West C Street, Suite 1600, San Diego, CA 92101, phone (619) 234-6121, fax (619) 595-1313, attorney for SDCERS and THE CITY.

## VII.

### CHANGE OF ADDRESS

If you move after receiving this notice or if it was misaddressed, and if you are a deferred or retired member, beneficiary, survivor or successor in interest of any member of SDCERS who claims benefits as a result of employment with THE CITY, you should supply your name and correct address to the San Diego City Employees' Retirement System. If you are an active employee of THE CITY, you should supply that information to the payroll department of the City of San Diego. **THIS IS IMPORTANT SO THAT FUTURE NOTICES REACH YOU.**

///

## VIII.

**EXAMINATION OF PAPERS AND INQUIRIES**

The pleadings and all of the records of this litigation may be examined and copied at any time during regular office hours of the Clerk of the Superior Court at the Hall of Justice, Second Floor, Room 225 (Civil Records and Filings), 330 West Broadway, San Diego, California 92101.

**IF YOU HAVE QUESTIONS OR COMMENTS, DO NOT CALL OR WRITE TO THE COURT OR THE CLERK OF THE COURT. PLEASE ADDRESS ALL INQUIRIES IN WRITING TO THE COUNSEL FOR YOUR SUB-CLASS, STATED ABOVE.**

ROBERT E. MAY

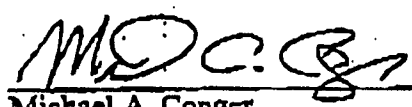
Date: APR 04 2000

HON. ROBERT E. MAY  
Superior Court of The State of California  
County of San Diego

**SO APPROVED AS THE SETTLEMENT AGREEMENT, SUBJECT TO COURT APPROVAL:**

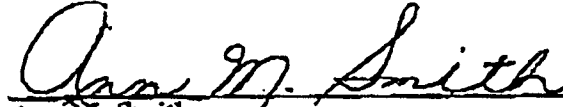
Date: 3/31/00

LAW OFFICES OF MICHAEL CONGER

  
Michael A. Conger  
Attorney for Sub-classes A and F

Date: April 3, 2000

TOSDAL LEVINE SMITH &amp; STEINER

  
Ann M. Smith  
Attorney for Sub-class B


Date: 4/3/2000FOGEL, FELDMAN, OSTROV, RINGLER &  
KLEVENS, a Law Corporation

  
Joel N. Klevens  
Attorney for Sub-class C

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28


Date: March 31, 2000

ROTHNER, SEGALL & GREENSTONE

  
Anthony R. Segall  
Attorney for Sub-Class D

Date: March 31, 2000

CASTLE & KRAUSE

  
Richard H. Castle, Jr.  
Attorney for Sub-Class E

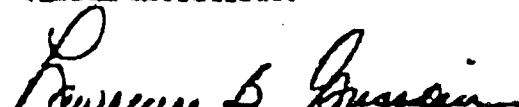
Date: March 31, 2000

HILLYER & IRWIN

  
David B. Hopkins  
Attorney for SDCERS and THE CITY


Date: March 31, 2000

SDCERS RETIREMENT BOARD OF  
ADMINISTRATION

  
Lawrence B. Grissom  
Its Administrator

Date: March 31, 2000

CITY OF SAN DIEGO

  
Michael T. Ubernaga  
Its City Manager

**Tab #2**

## **CLARIFICATION OF SETTLEMENT TERMS**

*Corbett, et al v. City Employees' Retirement System, et al, Case # 722449*

The terms of the settlement agreement as set forth in the "Notice of Proposed Settlement of Class Action," filed April 4, 2000, are clarified as follows:

1. **Supplemental COLA.** Payments made under the *Corbett* settlement will not reduce the supplemental cost of living increase given to eligible SDCERS retirees.
2. **Reciprocity Agreements.** The settlement affects only the retirement benefits to be paid by SDCERS to a class member. If a class member receives (either now or in the future) retirement benefits from both SDCERS and from some other reciprocating body, the increased retirement benefits resulting from the *Corbett* settlement apply to the benefits to be paid by SDCERS, but not to the benefits to be paid by any other reciprocating entity which is not a party to the settlement. Similarly, the settlement affects only the contribution rates of class members related to their employment with the City, and not with any other reciprocating entity.
3. **General Member Retirement Calculation Factors Starting at Age 55.** The exact steps for increasing the Retirement Calculation Factor from 2.25% at age 55 up to 2.55% at age 65 and all subsequent years which general members may elect at the time of retirement are as follows:

Age	Retirement Calculation Factor
55-59	2.25%
60	2.3%
61	2.35%
62	2.4%
63	2.45%
64	2.5%
≥65	2.55%

4. **Estimated Dates for Contingent Payments.** The contingent payments to class members who are retired as of June 30, 2000, and the contingent payments to DROP participants for the period prior to July 1, 2000 will be made "in approximately November" of the applicable year, as opposed to "in approximately October."

---

Clarification of Settlement Terms

*Corbett, et al v. City Employees' retirement System, et al, Case # 722449*

5. Costs and Attorneys' Fees. Costs and attorneys' fees in the total amount of \$1.2 million are to be paid by the City and SDCERS to counsel for the plaintiff sub-classes.